

AMENDED IN SENATE AUGUST 5, 2002

AMENDED IN SENATE APRIL 25, 2002

AMENDED IN ASSEMBLY JANUARY 7, 2002

AMENDED IN ASSEMBLY APRIL 30, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member La Suer
(Coauthor: Assembly Member Strickland)
(Coauthor: Senator Scott)

February 22, 2001

An act to amend Sections 8714, 8715, 8802, and 8807 of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, La Suer. Nonresident petitioners: adoption.

Existing law provides that a prospective adoptive parent may file a petition for an agency adoption or an independent adoption of a child in the county in which the petitioner resides.

This bill would further provide that if the petitioner is not a resident of this state, he or she may file a petition for an agency adoption or an independent adoption in the county in which the ~~child resides~~ *placing birthparent or birthparents resided when the adoption placement agreement was signed, or when the relinquishment of parental rights for the purpose of adoption was signed*. The bill would ~~impose a~~

~~state-mandated local program by requiring~~, in the instances in which the petitioner is the resident of another state, *require* that an updated and current homestudy report, conducted and approved by a licensed adoption agency or other ~~reliable~~ *authorized* resource in the state in which ~~the~~ petitioner resides, be reviewed and endorsed *by the State Department of Social Services, as specified*.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8714 of the Family Code is amended to
- 2 read:
- 3 8714. (a) A person desiring to adopt a child may for that
- 4 purpose file a petition in the county in which the petitioner resides
- 5 or, if the petitioner is not a resident of this state, in the county in
- 6 which ~~the child resides~~ *placing birthparent or birthparents resided*
- 7 *when the adoption placement agreement was signed, or when the*
- 8 *relinquishment of parental rights for the purpose of adoption was*
- 9 *signed*. Where a child has been adjudged to be a dependent of the
- 10 juvenile court pursuant to Section 300 of the Welfare and
- 11 Institutions Code, and has thereafter been freed for adoption by the
- 12 juvenile court, the petition may be filed either in the county where
- 13 the petitioner resides or in the county where the child was freed for
- 14 adoption.
- 15 (b) The court clerk shall immediately notify the department at
- 16 Sacramento in writing of the pendency of the proceeding and of
- 17 any subsequent action taken.

1 (c) If the petitioner has entered into a postadoption contact
2 agreement with the birth parent as set forth in Section 8714.7, the
3 agreement, signed by the participating parties, shall be attached to
4 and filed with the petition for adoption under subdivision (a).

5 (d) The caption of the adoption petition shall contain the names
6 of the petitioners, but not the child's name. The petition shall state
7 the child's sex and date of birth. The name the child had before
8 adoption shall appear in the joinder signed by the licensed
9 adoption agency.

10 (e) If the child is the subject of a guardianship petition, the
11 adoption petition shall so state and shall include the caption and
12 docket number or have attached a copy of the letters of the
13 guardianship or temporary guardianship. The petitioners shall
14 notify the court of any petition for guardianship or temporary
15 guardianship filed after the adoption petition. The guardianship
16 proceeding shall be consolidated with the adoption proceeding.

17 (f) The order of adoption shall contain the child's adopted
18 name, but not the name the child had before adoption.

19 SEC. 2. Section 8715 of the Family Code is amended to read:

20 8715. (a) The department or licensed adoption agency,
21 whichever is a party to, or joins in, the petition, shall submit a full
22 report of the facts of the case to the court.

23 (b) If the child has been adjudged to be a dependent of the
24 juvenile court pursuant to Section 300 of the Welfare and
25 Institutions Code, and has thereafter been freed for adoption by the
26 juvenile court, the report required by this section shall describe
27 whether the requirements of subdivision (e) of Section 16002 of
28 the Welfare and Institutions Code have been completed and what,
29 if any, plan exists for facilitation of postadoptive contact between
30 the child who is the subject of the adoption petition and his or her
31 siblings and half-siblings.

32 (c) If a petition for adoption has been filed with a postadoption
33 contact agreement pursuant to Section 8714.7, the report shall
34 address whether the postadoption contact agreement has been
35 entered into voluntarily, and whether it is in the best interests of the
36 child who is the subject of the petition.

37 (d) The department may also submit a report in those cases in
38 which a licensed adoption agency is a party or joins in the adoption
39 petition.

(e) If a petitioner is a resident of a state other than California, an updated and current homestudy report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed *by the department, if the standards and criteria established for a homestudy report in the other state are substantially commensurate with the homestudy standards and criteria established in California adoption regulations.*

SEC. 3. Section 8802 of the Family Code is amended to read:

8802. (a) (1) Any of the following persons who desire to adopt a child may, for that purpose, file a petition in the county in which the petitioner resides or, if the petitioner is not a resident of this state, in the county in which the ~~child resides~~ *placing birthparent or birthparents resided when the adoption placement agreement was signed, or when the relinquishment of parental rights for the purpose of adoption was signed:*

(A) An adult who is related to the child or the child's half sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

(B) A person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.

(C) A person with whom a child has been placed for adoption.

(D) A legal guardian who has been the child's legal guardian for more than one year. However, if the parent nominated the guardian for a purpose other than adoption for a specified time period, or if the guardianship was established pursuant to Section 360 of the Welfare and Institutions Code, the guardianship shall have been in existence for not less than three years.

(2) If the child has been placed for adoption, a copy of the adoptive placement agreement shall be attached to the petition. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(b) The petition shall contain an allegation that the petitioners will file promptly with the department or delegated county adoption agency information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition does not affect the jurisdiction of the

1 court to proceed or the validity of an adoption order or other order
2 based on the petition.

3 (c) The caption of the adoption petition shall contain the names
4 of the petitioners, but not the child's name. The petition shall state
5 the child's sex and date of birth and the name the child had before
6 adoption.

7 (d) If the child is the subject of a guardianship petition, the
8 adoption petition shall so state and shall include the caption and
9 docket number or have attached a copy of the letters of the
10 guardianship or temporary guardianship. The petitioners shall
11 notify the court of any petition for guardianship or temporary
12 guardianship filed after the adoption petition. The guardianship
13 proceeding shall be consolidated with the adoption proceeding.

14 (e) The order of adoption shall contain the child's adopted
15 name, but not the name the child had before adoption.

16 SEC. 4. Section 8807 of the Family Code is amended to read:

17 8807. (a) Except as provided in subdivisions (b) and (c),
18 within 180 days after the filing of the petition, the department or
19 delegated county adoption agency shall investigate the proposed
20 independent adoption and submit to the court a full report of the
21 facts disclosed by its inquiry with a recommendation regarding the
22 granting of the petition.

23 (b) If the investigation establishes that there is a serious
24 question concerning the suitability of the petitioners or the care
25 provided the child or the availability of the consent to adoption, the
26 report shall be filed immediately.

27 (c) In its discretion, the court may allow additional time for the
28 filing of the report, after at least five days' notice to the petitioner
29 or petitioners and an opportunity for the petitioner or petitioners
30 to be heard with respect to the request for additional time.

31 (d) If a petitioner is a resident of a state other than California,
32 an updated and current homestudy report, conducted and approved
33 by a licensed adoption agency or other authorized resource in the
34 state in which the petitioner resides, shall be reviewed and
35 endorsed *by the department, if the standards and criteria*
36 *established for a homestudy report in the other state are*
37 *substantially commensurate with the homestudy standards and*
38 *criteria established in California adoption regulations.*

39 ~~SEC. 5. Notwithstanding Section 17610 of the Government~~
40 ~~Code, if the Commission on State Mandates determines that this~~

1 ~~act contains costs mandated by the state, reimbursement to local~~
2 ~~agencies and school districts for those costs shall be made pursuant~~
3 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
4 ~~2 of the Government Code. If the statewide cost of the claim for~~
5 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
6 ~~reimbursement shall be made from the State Mandates Claims~~
7 ~~Fund.~~

